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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/775,715

02/10/2004

Roy Gary Black

ISI 0402

3836

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06/12/2007

EXAMINER

WENDELL, MARK R

ART UNIT

PAPER NUMBER

3609

MAIL DATE

DELIVERY MODE

06/12/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/775,715	BLACK, ROY GARY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mark R. Wendell	3609	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/10/2004</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Specification***

The spacing of the lines of the specification is such as to make reading difficult. New application papers with lines 1½ or double spaced on good quality paper are required.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference characters not mentioned in the description: Items 50 in Figure 15 and 52 in Figure 16. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

Claim 27 is objected to because of the following informalities: Claim 27 does not specifically point out a method step and should distinctly claim the action of abutting. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

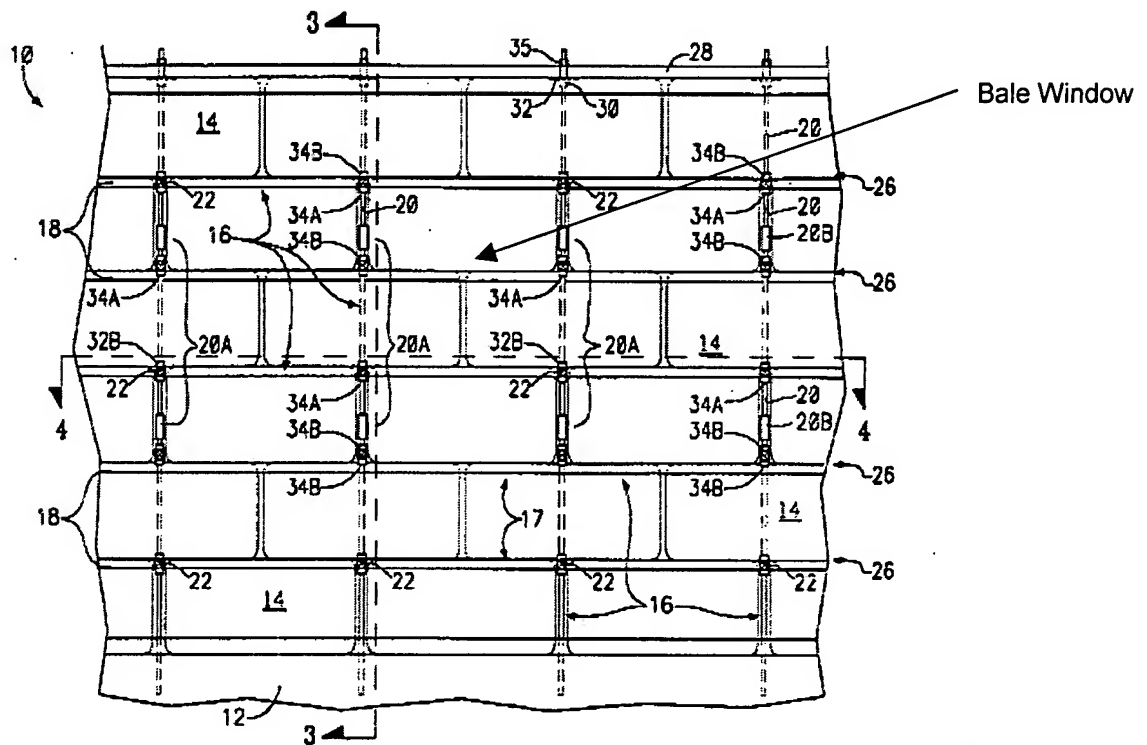
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-11, 13-14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Allen (US 6041566). Allen illustrates in Figures 2 and 4, an internal bracing system (10) for a vertical wall having straw bales (14) stacked in courses on a foundation wall (12) comprising:

- A plurality of spaced apart bracing ladders (26) and mid-wall ladders extending from corner to corner (Claim 7) attached to the foundation (12) and rising vertically where some bales abut the ladders and some surround the ladders;
- Ladders with bale windows large enough to surround the bale (14);
- Ladders with alternating bale abutments (20A) between ladder windows;

- Ladders with two spaced-apart rails (24) connected by struts (20), which define a space large enough to surround a bale (Claim 10);
- A foundation (12) with spaced-apart ladders attached to it;
- X-shaped spars (24) (Claim 11);
- A stiffening ladder (18) (Claims 13 and 14).

The examiner notes, with respect to claims 7 and 8, the orientation of walls when built is generally 90 degrees or at right angles to one another. It is assumed that the mid-wall ladders of Allen's Figure 4 would be in each wall and by definition (based on claim 8 of the application) would be corner ladders.



**Figure 2 of Allen (US 6041566)**

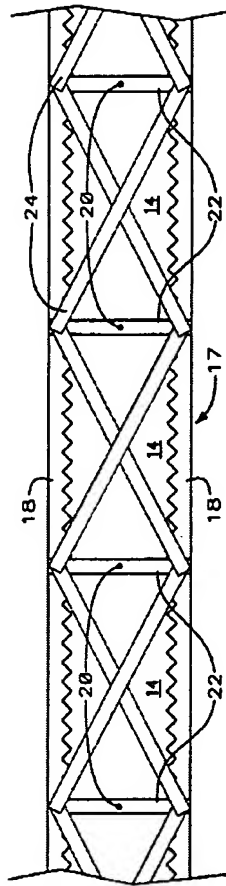


Figure 4 of Allen (US 6041566)

Claims 15 is rejected under 35<sup>th</sup> U.S.C. 102(b) as being anticipated by Allen (US 5749199). Allen discloses in the specification and illustrates in Figures 10 and 16 a straw bale wall with an internal bracing system comprising:

- A foundation wall (12) with a plurality of anchor dowels (dotted rectangles in Figure 10 within the foundation (12));
- Mid-wall bracing ladders (26) affixed to the foundation (12) via anchor dowels (28);

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- Straw bales (4) stacked on the foundation (12) in a running bond (Column 2, lines 51-54), with some abutting bracing ladders and others surrounded by the bracing ladders.

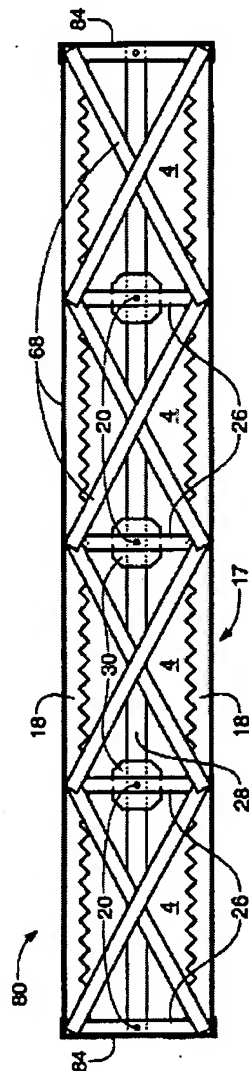


Figure 16 of Allen (US 5749199)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allen (US 6041566). Allen discloses the claimed invention as described before except for the ladders being formed from lengths of rebar tack welded together. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the ladders from rebar and tack weld the pieces together, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice (In re Leshin, 125 USPQ 416). It is also notoriously well known in the art of building construction to use the method of tack welding to attach objects, such as rebar, together.

Claims 12, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen (US 6041566) in view of Allen (US 5749199). Allen (US 6041566) discloses the claimed invention as described above however, Allen (US 6041566) does not teach anchor dowels affixed to the foundation wall or connecting rods extending vertically from

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the anchor dowel to the top of the bale stack. However, Allen (US 5749199) illustrates in Figure 16 (see Figure above) anchor dowels (dotted rectangles in Figure 10 within the foundation (12)) affixed to the foundation wall (12) and connecting rods (28) extending vertically from the anchor dowel to the top of the bale stack. It would have been obvious to one of ordinary skill in the art, with the motivation of stabilizing the straw bales within the wall to be able to withstand strong storms and normal movement within the structure, to modify the straw bale core wall of Allen (US 6041566) with the anchoring dowels and connecting rods of Allen (US 5749199).

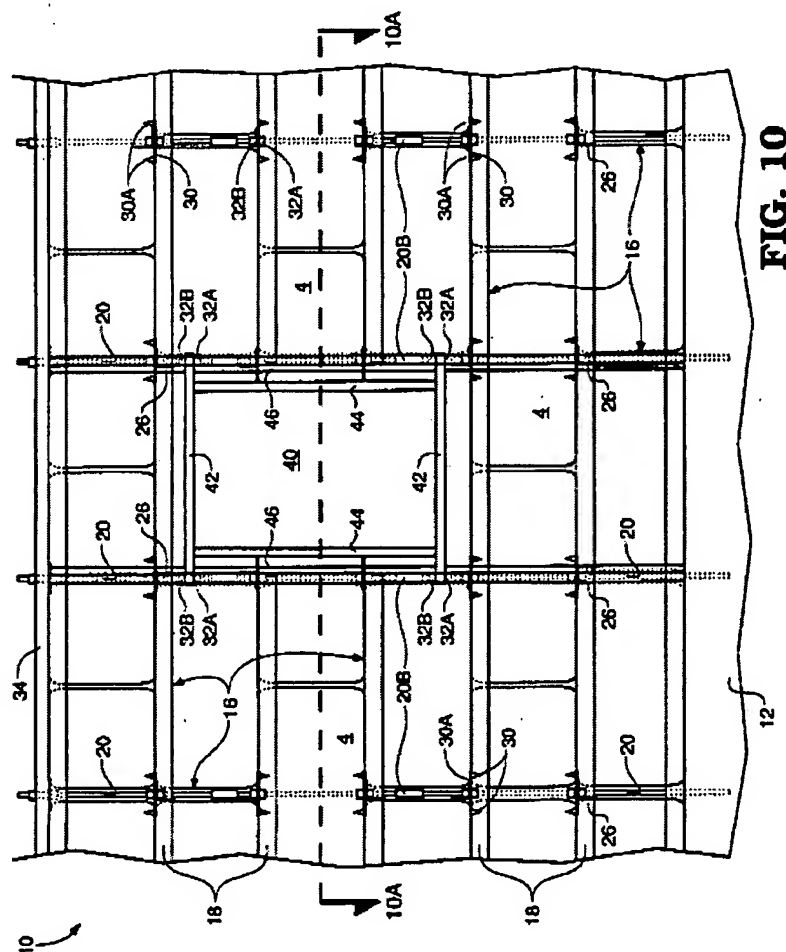


Figure 10 of Allen (US 5749199)

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Claims 19-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen (US 6041566). Allen illustrates in Figures 2 and 4, an internal bracing system (10) for a vertical wall having straw bales (14) stacked in courses on a foundation wall (12) comprising:

- A plurality of spaced apart bracing ladders (26) and mid-wall ladders attached to the foundation (12) and rising vertically where some bales abut the ladders and some surround the ladders;
- Ladders with bale windows large enough to surround the bale (14);
- Ladders with alternating bale abutments (20A) between ladder windows;
- Ladders with two spaced-apart rails (24) connected by struts (20), which define a space large enough to surround a bale;
- A foundation (12) with spaced-apart and corner (Column 7, lines 6-8) ladders attached to it;
- Spars (34A and 34B) at the end of bales in running bond (Column 2, lines 25-28). The examiner notes that the spars are not shaped like an hourglass, however the shape does not add any additional structure or alter the function of the apparatus;
- A stiffening ladder (18, 26) either at the top of the sixth, or top, course.

Concerning claims 19-30, the claimed method steps are rendered obvious since such would be logical manner of using, or constructing, the apparatus.

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### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hagaman (US 7073306) teaches a method of building a structure with straw bale core walls. Canada (US 6061986) teaches a reinforced stucco panel and straw insulator wall assembly. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark R. Wendell whose telephone number is (571) 270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Victor Batson  
Supervisory Patent Examiner  
Art Unit 3609

MW  
June 4, 2007